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July 12, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Room TWB-204
Washington, D.C. 20554

Re: Ex Parte Presentation in CC Docket No. 96-98

Dear Ms. Salas:

Yesterday Joseph Gillan and I, on behalf of the Promoting Active Competition Everywhere (PACE) Coalition, met with Dorothy Attwood of Chairman Kennard's office regarding the above-referenced proceeding. During the meeting, PACE reviewed a switching cross-over analyses performed by PACE, and asked the FCC to modify the rule specifying that incumbent local exchange carriers do not have to provide local switching as a mandatory UNE for customers with four lines or more in certain circumstances. A copy of the written materials distributed by PACE at the meeting are attached.

PACE submits that, consistent with the impairment standard in 47 U.S.C. § 251(d)(2)(B), the cutoff for availability of the local switching element should be DS1-based. PACE pointed out that access to the local switching UNE is necessary to serve analog lines in mass-market conditions and in that broad-based local competition will not develop if manual processing must be employed to migrate customers.

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List A B C D E

In accordance with Section 1.1206 of the Commission's rules, an original and one copy of this letter and accompanying materials are being filed with your office.

Sincerely,

Genevieve Morelli

Genevieve Morelli

Attachment
cc: Dorothy Attwood

The Birch Analysis[1] Estimates When A Customer Has Sufficient Analog Lines To Be Served Less Expensively Through A High-Capacity Facility And A High-Speed Digital Facility.

Birch Analysis

Lines	UNE-P Monthly[2]	DS-1 12 Month	DS-1 24 Month	DS-1 36 Month
12	$173.82	$283.45	$238.17	$227.18
13	$188.27	$283.45	$238.17	$227.18
14	$202.72	$283.45	$238.17	$227.18
15	$217.17	$283.45	$238.17	$227.18
16	$231.62	$283.45	$238.17	$227.18
17	$246.07	$283.45	$238.17	$227.18
18	$260.52	$283.45	$238.17	$227.18
19	$274.97	$283.45	$238.17	$227.18
20	$289.42	$283.45	$238.17	$227.18
21	$303.87	$283.45	$238.17	$227.18
22	$318.32	$283.45	$238.17	$227.18
23	$332.77	$283.45	$238.17	$227.18
24	$347.22	$283.45	$238.17	$227.18

Area where DS-1 is less costly than loops.

1 The Birch Analysis was filed by Birch Telecom in its reply to oppositions to its petition for reconsideration in this proceeding.

2 The Birch Analysis does not include SBC's port costs or Birch's costs for its self-provisioned switch port, backhaul, interoffice transport, or the costs associated with call termination. These exclusions are equivalent to assuming that Birch's network is at least as (actually more) efficient as SBC's network, even though as a new entrant Birch is not able to achieve any of the scale economies of SBC.

Updating the Birch Analysis to Include the Additional Cost of An EEL Substantially Increases the Economic Crossover

Lines	UNE-P Monthly	DS-1 EEL		
		12 Month	24 Month	36 Month
16	$231.62	$358.70	$305.09	$291.34
17	$246.07	$358.70	$305.09	$291.34
18	$260.52	$358.70	$305.09	$291.34
19	$274.97	$358.70	$305.09	$291.34
20	$289.42	$358.70	$305.09	$291.34
21	$303.87	$358.70	$305.09	$291.34
22	$318.32	$358.70	$305.09	$291.34
23	$332.77	$358.70	$305.09	$291.34
24	$347.22	$358.70	$305.09	$291.34

Area where DS-1 is less costly.

Conclusions from the Birch Analysis

1. Due to the high non-recurring charges to establish a high-capacity arrangement, this alternative is only viable in a contract environment, which ensures a sufficient time period for cost recovery.

2. The initial Birch Analysis evaluates only the cost to serve customers whose loops terminate at Birch's collocation arrangement. If the additional costs of an Enhanced Extended Link (EEL) are included, the crossover increases substantially to approximately 21 (three year contract) or 22 (two year contract) lines. One year contracts are not of sufficient duration to amortize the additional nonrecurring costs of establishing an EEL.[3]

3. The Birch Analysis is deliberately conservative. Actual crossovers are likely to be higher. Given the conservative nature of the Birch Analysis, and customer resistance to committing to long-term contracts with new entrants, the Commission should not base any impairment decision on contracts longer than 2 years.

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[3] The analysis includes only the fixed monthly and nonrecurring costs to establish a DS1 EEL of one mile in length. Longer EELs incur additional mileage-related costs that would increase the crossover, albeit slowly.

**The 3 Line Restriction Creates A "Lost Market"
Of Business Customers that Would Be Served by UNE-P**

Number of Lines with Account	Distribution of Market (Ameritech)[4]	Access Method	Distribution of Market Served by UNE-P Carriers Today[5]	
			PACE #1	PACE #2
3 or less	20.6%	UNE-P Available	24.8%	36.6%
4 to 20	32.6%	The "Lost Market"	62.2%	60.3%
More than 20	46.8%	Sufficiently Large for DS-1	13.0%	3.1%

Conclusions of Market Analysis

* The 3 line restriction will deny competition to nearly a third of the business market in the top 50 MSAs.

* The California Small Business Association estimates that approximately 74% of small businesses in that state have between 4 and 20 lines.[6]

* Increasing the line restriction to 20 lines would still restrict UNE-P from being used to serve nearly 50% of the business lines in the top 50 MSAs.

SBC's Texas §271 Application Confirms the Coalition's Economic Analysis

"SWBT recommends the use of the CHC [coordinated hot cut] process *when 20 or more UNE loops* are to be converted at a single end user's address ... The CHC process is normally necessary only *for larger size business customers where the amount of existing competition is much greater.*"[7]

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4 Compiled from Ameritech *Ex Parte* , CC Docket No. 96-98, filed September 3, 1999.

5 Statistics based on the actual line distributions of two PACE Coalition members serving business customers today, unimpaired by the line restriction.

6 *Ex Parte* letter from the California Small Business Association, CC Docket 96-45, filed March 10, 1997.

7 Reply Affidavit of Candy R. Conway, Texas Public Service Commission, CC Docket No. 00-4, paragraph 42 (citing Conway Affidavit, paragraph 79) (emphasis supplied).

The PACE Coalition Proposal Will Result in *More* Lines Being Restricted From Being Served with Unbundled Local Switching than the Current Rule

Current Rule: In the top 50 MSAs where EELs are available, unbundled local switching cannot be used to serve customers with more than 3 lines served by a Zone 1 central office in the MSA.

Estimated Impact of Limitation

Criteria	Percent Affected
Customers with > 3 lines[8]	79.4%
Percent of Market in Zone 1[9]	40.2%
Lines subject to Limitation	31.9%

Proposed Rule: In the top 50 MSAs where EELs are available, unbundled local switching cannot be used to serve customers with more than 20 lines at *any* central office in the MSA.

Estimated Impact of Limitation

Criteria	Percent Affected
Customers with > 20 lines[1]	46.8%
Limitation Applies to Entire MSA	100.0%
Lines subject to Limitation	46.8%

Although the rule proposed by the PACE Coalition results in *more* lines being restricted from access to unbundled local switching, the proposed rule rationally relates the limitation to the impairment faced by entrants.

8 Estimated from Ameritech *Ex Parte*, CC Docket No. 96-98, filed September 3, 1999,.

9 Estimate of the weighted average number of lines in Zone 1 offices for Ameritech, Bell Atlantic (South), BellSouth, Pacific Bell and US West. The percentage of switched lines for these RBOCs included in Zone 1 was provided by Ad Hoc in their Comments on the original Zone Density Plan proposals filed by the ILECs. The weighted average was calculated using total SLC demand for these companies as reported in the September 1, 1999 *Ex Parte* filed by CALLS in support of its proposal in Docket No. 96-262.